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TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE

Testimony regarding HB 6521, An Act Concerning Medical Orders for Life-Sustaining Treatment

Senator Gerratana, Rep. Johnson, and members of the Public Health Committee,

Thank you for the opportunity to speak to you today.

On behalf of the Family Institute of Connecticut Action, I wish to express strong opposition to HB 6521, An Act Concerning Medical Orders for Life-Sustaining Treatment (MOLST). Several other states allow similar documents, often called Physician Orders for Life-Sustaining Treatment, or POLST.

The one-page POLST document is brightly colored to attract attention, and combines several patient care directives such as a “do not resuscitate” order (DNR), an “allow natural death” order (AND) which refuses all treatments except comfort care, an order to withhold assisted nutrition and hydration, and an order to refuse all antibiotics. Each of the orders is executed by checking a box.

Unlike the traditional living will, a POLST or MOLST document takes effect the moment it is signed by a physician or other empowered health care provider. Because we cannot predict the future, it is difficult to determine in advance whether specific medical treatments are necessary or optional. These decisions depend upon factors such as the benefits, expected outcomes, and the risks or burdens of the treatment, and these may change over time and in different circumstances.

Looking at the use of these orders should make us cautious about moving ahead with a similar system in Connecticut. Here are some of the problems with MOLST:

1. **The order may be implemented when the patient is not terminally ill.** Laws authorizing living wills exempt health care workers from liability when they are acting upon a patient's request to withhold or withdraw life-sustaining treatment if the patient is suffering from a “terminal condition” or in a state of permanent unconsciousness. Laws authorizing the use of POLST annul the requirement that a patient be terminally ill before he or she may direct the withholding or withdrawal of life-sustaining treatments. In other words, the POLST authorizes any adult patient to refuse any treatment at any time for any reason, whether or not the treatment is associated with end-of-life conditions.
2. **No patient signature is required for their implementation.** A doctor's signature is mandatory on the POLST forms used in Wisconsin, Oregon, and Montana, but the

signature of the patient (or surrogate) is merely recommended. Physicians in La Crosse, Wisconsin, have reported that they have seen hundreds of completed POLST forms with no patient (or surrogate) signatures. This lack of fully informed consent is ethically questionable and could be medically negligent.

3. **No signature is required of a physician attending the patient when the orders are implemented.** State DNR laws protect patients by requiring that only the attending physician write the order, that he or she inform the patient of the consequences of DNR, and document the medical condition that qualifies the patient for DNR. Many state POLST documents may be signed by *any* doctor, nurse practitioner, or physician assistant.
4. **POLST orders travel with patients from one health care facility to another.** Advocates believe that this ensures continuity of care across institutions in accord with a patient's wishes. But if the documents are not regularly updated to reflect changing clinical situations and wishes of the patients, they risk ordering inappropriate or outdated measures. The documents also require caregivers in new settings to follow orders issued by clinicians at other institutions, separating the health care providers from the "ordering" physicians.
5. **The orders are effective immediately.** Living wills apply only when both of the following conditions occur: (a) the patient is incapable of making decisions *and* (b) the patient develops a serious clinical problem (e.g., a terminal, incurable, irreversible condition). The protections granted by POLST legislation guarantee safety for a health care provider, given the fact that "good faith" actions under POLST are not subject to criminal, civil, or disciplinary proceedings. Therefore, a health care provider could potentially ignore conflicting directives from family, other directives, or even the expressed present wishes of the patient and avoid any liability simply by stating he or she was acting in good faith by following the POLST form.
6. **POLST utilizes a simplistic check-box format for directing complex decision making.** The check-box format of the POLST is confusing and cannot possibly account for all the medical contingencies that may arise at some future time when a patient loses consciousness. In actuality, POLST documents interfere with good in-the-moment medical decision making, good end-of-life care, and informed consent.

We encourage the Public Health Committee to vote against HB 6521.

As an alternative, we encourage all persons 18 or older to use a durable power of attorney for health care. This document allows patients to appoint a trusted person to make health care decisions on their behalf. It is important that the patient choose someone who will make decisions consistent with that patient's treatment wishes, and to discuss his or her wishes with that person.

Thank you.